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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,370	02/28/2002	Steve Stefanik	PALM-3782.US.P	3334

7590 08/03/2004  
WAGNER, MURABITO & HAO LLP  
Two North Market Street, Third Floor  
San Jose, CA 95113

EXAMINER
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AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Art Unit

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/30/04
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3-12, 14-23, 25-29 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12, 14-23, 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. Claims 1,3-8,12,14-19,23,25-27 as amended are rejected under 35 USC 103(a) as unpatentable over Baker(US Pat. Appl Publ US 2003/0033243 A1) in view of Suzuki(US Pat. No: 5,267,171).

Baker discloses a digital content vending machine system and a method for its use. Digital content includes computer programs, videos, music(0003) and may include simulations. A digital content requestor as a PDA(019) is wirelessly coupled to the content vending machine(software dispensing ATM or kiosk)(0018). Communications between the PDA and the software-dispensing machine can be sent via a Bluetooth network or through conventional infra-red, radio frequency wireless technologies(0018). The software dispensing machine can be connected to a remote content reservoir that stores the computer program via a communications network or may be combined into one device where the product offerings are stored on the software dispensing machine(0024).

A user browses through the product offerings of the system using the software dispensing device(inherently comprising the listing of name, description and price of each product(0033). The machine contains any type of data and is advantageously adapted to dispense copy sensitive data such as copyrighted must video or other forms of information(0034). The user then selects a program for download, either using the PDA or through physical interaction with a vending machine(0035).

The user renders payment using credit cards, debit card, electronic funds transfer or any other acceptable means of payment(0036). Upon verification of payment the content vending machine retrieves the requested software program either stored locally or retrieved from the remote content reservoir(0038) and transmits the program wirelessly to the PDA(0040). Suzuki teaches a software dispensing vending machine that enables a user to browse, purchase and download software. The machine has a display unit and a memory that stores programs for demonstration of each software product. Users can preview and emulate a software product on the machine before choosing it for purchase(col 2 lines 58-62)(Fig 2/14). Thus they are able to manipulate the software to preview and display products. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the software-dispensing system of Baker to include the ability to preview(emulate) a product on the machine as taught by Suzuki to ensure customer satisfaction and which permits shortening of the time required for a user to select and buy a product as enunciated by Suzuki(col 1 lines 37-41).

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2. Claims 9-11,20-22,28-29 are rejected under 35USC 103(a) as unpatentable over

Baker(US Pat. Application Publication US 2003/0033243 A1) in view of  
Kellner(3/15/01)("Hand-helds: Don't Get into a Crunch: Prevention and a Backup Plan  
Can Save Your Data")

In these claims Baker does not specifically teach that the information from the PDA is backed up onto the vending machine, and that the system comprises restoring the backed up information from the vending machine onto a replacement PDA and that the system archives inactive software programs from the PDA onto the vending machine.

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Now PDA users employ personal Internet-enabled computers to download desired software programs for their handheld computers. Using the synchronization function, users may then transfer these files(programs) from their computers to the PDAs.

Extension of this process from a personal computer to a remotely located software-dispensing ATM-kiosk is obvious as taught by Baker of providing a PDA user with ubiquitous access to software products.

In the traditional model, users also typically synchronize existing information from the PDA for storage on their computers. Kellner teaches an online web-based PDA data backup storage system. "FusionOne" offers a premium service that includes the ability to replicate a PDA's data and program files online, creating ubiquitous access to the information(creating a backup allowing for loading of the backup data on a replacement PDA, archiving inactive software on the system) for the express purpose of reducing the inconvenience encountered in the replacement of a PDA when it is lost, stolen or broken.

As Baker expanded the availability of the software for a PDA user to download, it would have been obvious to one skilled in the art at the time of the invention to modify the system software distribution as disclosed in Baker to include remote backup data storage capability as taught by Kellner in order to provide ubiquitous access to PDA information and decrease the inconvenience associated with a lost device.

### ***Response to Arguments***

3. Applicant's arguments have been considered but are not persuasive and are addressed in the rejection above.

***Conclusion***

**4. THIS ACTION IS MADE FINAL.**

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5. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

GRA

July 30, 2004



**DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER**